

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT DeSHIELDS,)	
)	Civil Action No. 2: 17-cv-0784
v.)	
)	United States Senior Judge
)	Joy Flowers Conti
MICHAEL ZAKEN,)	
MARK DIALESANDRO,)	
OFFICER ALBAN, SHELLY MANKEY,)	
S. LONGSTRETH, and MS. CONGELIO,)	
All sued in their Individual and Official)	
Capacity,)	
)	

Defendants.

OPINION

Introduction

This case was referred to a United States magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court 72.C and 72.D. On May 12, 2020, the magistrate judge filed a Report and Recommendation (“R&R”) (ECF No. 93), recommending that the summary judgment motion filed by plaintiff Robert DeShields (“DeShields”) (ECF No. 76) be denied.

The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2, objections to the R&R must be filed by May 27, 2020, by defendants and by June 1, 2020, by DeShields because he is not a registered CM/ECF user, and that failure to file timely objections would constitute a waiver of appellate rights. No timely objections were filed.

Legal Analysis

Even if no objections are filed, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; *see also McClain v. Pennsylvania Department*

of Corrections, No. 1:19-CV-1951, 2020 WL 1690081, at *1 (M.D. Pa. Apr. 7, 2020); *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the R&R for clear error). Following an independent review of the record, the court is satisfied that the R&R contains no clear error and will therefore accept the recommendation of the magistrate judge and deny DeShields' motion for summary judgment (ECF No. 76). The court will adopt the R&R as the opinion of the court, as supplemented herein.

Because defendants did not file motions for summary judgment, the remaining claims must be resolved by jury trial, as DeShields demanded in his amended complaint. In light of the covid-19 pandemic, the court is not currently conducting jury trials. The court will schedule a telephone status conference to discuss pretrial procedures and set a trial date upon notification from the magistrate judge that the case is trial ready.

Conclusion

For the reasons set forth in the magistrate judge's R&R, which will be adopted as the opinion of this court as supplemented herein, DeShields' motion for summary judgment (ECF No. 76) will be DENIED.

An appropriate Order will be entered.

BY THE COURT:

Dated: June 15, 2020

/s/ *Joy Flowers Conti*
Joy Flowers Conti
Senior United States District Court Judge